

the case of a head of household. Therefore, it is possible for the tax shown in the tables relating to joint returns, or relating to a return of a head of a household, to be lower than that shown in the table for separate returns even though the amounts of adjusted gross income and the number of exemptions are the same.

[T.D. 7117, 36 FR 9420, May 25, 1971]

§ 1.4-1 Number of exemptions.

(a) For the purpose of determining the optional tax imposed under section 3, the taxpayer shall use the number of exemptions allowable to him as deductions under section 151. See sections 151, 152, and 153, and the regulations thereunder. In general, one exemption is allowed for the taxpayer; one exemption for his spouse if a joint return is made, or if a separate return is made by the taxpayer and his spouse has no gross income for the calendar year in which the taxable year of the taxpayer begins and is not the dependent of another taxpayer for such calendar year; and one exemption for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than the applicable amount determined pursuant to § 1.151-2. No exemption is allowed for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins. The taxpayer may, in certain cases, be allowed an exemption for a dependent child of the taxpayer notwithstanding the fact that such child has gross income equal to or in excess of the amount determined pursuant to § 1.151-2 applicable to the calendar year in which the taxable year of the taxpayer begins. The requirements for the allowance of such an exemption are set forth in paragraph (c) of § 1.152-1. See paragraphs (c) and (d) of § 1.151-1 with respect to additional exemptions for a taxpayer or spouse who has attained the age 65 years and for a blind taxpayer or blind spouse.

(b) The application of this section may be illustrated by the following examples:

Example 1. A, a married man whose duties as an employee require traveling away from

his home, has as his sole gross income a salary of \$5,600 for the calendar year 1954. His traveling expenses, including cost of meals and lodging, amount in such year to \$750, and hence, his adjusted gross income is \$4,850. His wife, B, has as her sole income interest in the amount of \$85, and thus the aggregate adjusted gross income of A and B is \$4,935. A has two dependent children neither of whom has any income. A and B file a joint return for 1954 on Form 1040. In such case four exemptions are allowable. The adjusted gross income falls within the tax bracket \$4,900-4,950. By referring to such tax bracket in the tax table in section 3 and to the column headed "4" therein, the tax is found to be \$407.

Example 2. C, a married man, has as his sole income in 1954 wages of \$4,600, and has two dependent children neither of whom has any income. His wife, D, has adjusted gross income of \$400. C files a separate return for 1954 and is entitled to claim three exemptions. C's income falls within the tax bracket \$4,600-4,650 and hence, with three exemptions his tax is \$480. No exemption is allowed with respect to since D has gross income and a joint return was not filed.

Example 3. D, a married man with no dependents, attains the age of 65 on September 1, 1954. The aggregate adjusted gross income of D and his wife for 1954 is \$4,840. D and his wife file a joint return for 1954 and are entitled to three exemptions, one for each taxpayer and one additional exemption for D because of his age. Since the adjusted gross income of D and his wife falls within the tax bracket \$4,800-4,850, the tax on a joint return is \$509.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 7114, 36 FR 9018, May 18, 1971]

§ 1.4-2 Elections.

(a) *Making of election.* The election to pay the optional tax imposed under section 3 shall be made by (1) filing a return on Form 1040A, or (2) filing a return on Form 1040 and electing in such return, in accordance with the provisions of section 144 and the regulations thereunder, to take the standard deduction provided by section 141.

(b) *Election under section 3 and election of standard deduction.* Section 144 (a) and the regulations thereunder provide rules for treating an election to pay the tax under section 3 as an election to take the standard deduction, and for treating an election to take the standard deduction as an election to pay the tax under section 3. For example, if the taxpayer's return shows \$5,000 or more

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of adjusted gross income and he elects to take the standard deduction, he will be deemed to have elected to pay the tax under section 3 if it is subsequently determined that his correct adjusted gross income is less than \$5,000.

(c) [Reserved]

(d) *Change of election.* For rules relating to a change of election to pay, or not to pay, the optional tax imposed under section 3, see section 144 (b) and the regulations thereunder.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6581, 26 FR 11677, Dec. 6, 1961; T.D. 7269, 38 FR 9295, April 13, 1973]

§ 1.4-3 Husband and wife filing separate returns.

(a) *In general.* If the separate adjusted gross income of a husband is less than \$5,000 and the separate adjusted gross income of his wife is less than \$5,000, and if each is required to file a return, the husband and the wife must each elect to pay the optional tax imposed under section 3 or neither may so elect. If the separate adjusted gross income of each spouse is \$5,000 or more, then neither spouse can elect to pay the optional tax imposed under section 3. If the adjusted gross income of one spouse is \$5,000 or more and that of the other spouse is less than \$5,000, the election to pay the optional tax imposed under section 3 may be exercised by the spouse having adjusted gross income of less than \$5,000 only if the spouse having adjusted gross income of \$5,000 or more, in computing taxable income, uses the standard deduction provided by section 141. If the spouse having adjusted gross income of \$5,000 or more does not use the standard deduction, then the spouse having adjusted gross income of less than \$5,000 may not elect to pay the optional tax and must compute taxable income without regard to the standard deduction. Accordingly, if the spouse having adjusted gross income of \$5,000 or more itemizes the deductions allowed by sections 161 and 211 in computing taxable income, the spouse having adjusted gross income of less than \$5,000 must also compute taxable income by itemizing the deductions allowed by sections 161 and 211, and must pay the tax imposed by section 1. For rules relative to the election to take the stand-

ard deduction by husband and wife, see part IV (section 141 and following), subchapter B, chapter 1 of the Code, and the regulations thereunder.

(b) *Taxable years beginning after December 31, 1963, and before January 1, 1970.* (1) In the case of a husband and wife filing a separate return for a taxable year beginning after December 31, 1963, and before January 1, 1970, the optional tax imposed by section 3 shall be—

(i) For taxable years beginning in 1964, the lesser of the tax shown in Table IV (relating to the 10-percent standard deduction for married persons filing separate returns) or Table V (relating to the minimum standard deduction for married persons filing separate returns) of section 3(a), and

(ii) For a taxable year beginning after December 31, 1964, and before January 1, 1970, the lesser of the tax shown in Table IV (relating to the 10-percent standard deduction for married persons filing separate returns) or Table V (relating to minimum standard deduction for married persons filing separate returns) of section 3(b).

(2) If the tax of one spouse is determined with regard to the 10-percent standard deduction provided for in Table IV of section 3(a) or 3(b) or if such spouse in computing taxable income uses the 10-percent standard deduction provided for in section 141(b), then the minimum standard deduction provided for in Table V of section 3(a) or 3(b) shall not apply in the case of the other spouse, if such spouse elects to pay the optional tax imposed under section (3). Thus, if a husband and wife compute their tax with reference to the standard deduction, one cannot elect to use the 10-percent standard deduction and the other elect to use the minimum standard deduction. However, an individual described in section 141(d)(2) may elect pursuant to such section and the regulations thereunder to pay the tax shown in Table V of section 3(a) or 3(b) in lieu of the tax shown in Table IV of section 3(a) or 3(b). See section 141(d) and the regulations thereunder for rules relating to the standard deduction in the case of married individuals filing separate returns.